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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,521	03/29/2002	Klaus Schnell	220246US0PCT	1457
22850	7590	03/03/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			PEZZUTO, HELEN LEE	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	
			1713	

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/088,521

Applicant(s)

SCHNELL ET AL.

Examiner

Helen L. Pezzuto

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3/29/02, 12/11/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/29/02.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

Art Unit: 1713

**DETAILED ACTION**

Applicant's amendment to claims 1-8 filed in the preliminary amendment on 3/29/02 is acknowledged. Currently, claims 1-8 are pending in this application.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry (US-525).

U.S. 3,166,525 to Perry discloses a emulsion or lattices comprising copolymers of N-vinyl-2-pyrrolidone and vinyl esters. Suitable vinyl esters include vinyl acetate and others, which falls within the scope of the instantly claimed monovinylester of C<sub>4</sub> to C<sub>20</sub> monocarboxylic acid (c) (col. 4, lines 1-7). Prior art further teaches using the emulsion or dried polymer as a protective colloid in emulsion and as an adjunct with other emulsions (col. 2, lines 51-65; col. 3, lines 34-42). Prior art is silent

Art Unit: 1713

regarding the recited amounts of each components, but is however, generic to any amounts functional to one skilled in the art, inclusive of applicants. Furthermore, only a single composition is shown in the comparative data of record. This is insufficient regarding the showing of criticality in the claimed range. In any event, it would have been obvious to one skilled in the art to envisage the proportion because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, absent a comparative showing of criticality for the recited range.

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lederer et al. (US-451) in view of Fox et al. (US-542).

U.S. 3,531,451 to Lederer et al. discloses a copolymer composition comprising N-vinylazetidinone, and up to 70% by weight of other unsaturated comonomers, including vinyl acetate, versatic acid vinyl ester, and N-vinylpyrrolidone ( col. 2, lines 1-35; col. 3, lines 15-22). Prior art specifically teaches that the resulting copolymer is suitably used as thickening agents for the preparation of films and coating and as impregnating agents (col. 5, lines

Art Unit: 1713

38-40). U.S. 3,632,542 to Fox et al. is related to the process of making free radical aqueous dispersion of copolymer suitably used as film forming composition or coating (col. 2, lines 21-26). Prior art aqueous dispersion falls within the scope of the presently claimed dispersion as expressed in claims 6-7, which further contains thickeners. Accordingly, since US-451 discloses the instant addition polymer as suitable thickeners in coating or film forming composition, it would have been obvious to one skilled in the art to select the thickeners taught in US-451 and incorporate into the coating composition of US-542, motivated by the reasonable expectation of success as taught. Once the combination is suggested, the determination of the optimal or workable amount is readily envisaged within prior art general condition. Thus, rendering obvious the present claims.

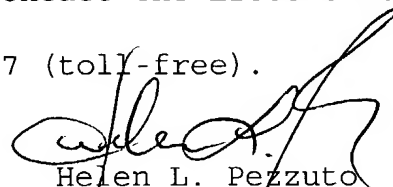
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen L. Pezzuto whose telephone number is (571) 272-1108. The examiner can normally be reached on 8 AM to 4 PM, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization

Art Unit: 1713

where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Helen L. Pezzuto  
Primary Examiner  
Art Unit 1713

hlp